

Message Text

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ORIGIN ACDA-10

INFO OCT-01 IO-13 ISO-00 FEA-01 CIAE-00 INR-07 L-03
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ERDA-05 PM-04 SS-15 SP-02 SSO-00 NSCE-00 INRE-00
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APPROVED BY ACDA/NTB:TDAVIES
NSC-JMARCUM S/S:LMACFARLANE
OSD-RSQUIRE
JCS-CWILMOT
ERDA-JPHILLIPS
PM/DCA-HPHELPS
OES/NET-JCOON
IO/SCT-AJILLSON
ACDA/GC-MMAZEAU
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FM SECSTATE WASHDC
TO USMISSION IAEA VIENNA IMMEDIATE
INFO USMISSION GENEVA

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GENEVA FOR BUCHHEIM (SCC DEL)

E.O. 11652: N/A DECONTROL 31 DECEMBER 1977

TAGS: IAEA, PARM, TECH

SUBJECT: IAEA AD HOC ADVISORY GROUP ON NUCLEAR EXPLOSIONS
FOR PEACEFUL PURPOSES

REF: (A) IAEA VIENNA 3337; (B) IAEA VIENNA 3318
(C) MIKULAK-MCNEILL TELEPHONE CONVERSATION,
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27 APRIL 1977
(D) STATE 94290

REF A:

1. REFTTEL PARA 1. (FINAL PARA, 23/21) FORMULATION
ACCEPTABLE.

2. REFTTEL PARA 3. (23/13, ANNEX II, PARA 9). FORMULATION REPORTED IS ACCEPTABLE. DEL SHOULD CONTINUE TO REFUSE TO GO BEYOND IT.

3. REFTTEL PARA 4. (23/13, ANNEX II, PARA 10). AGREE.

4. REFTTEL PARA 5. (23/13, ANNEX II, PARA 11 (III)). FORMULATION ACCEPTABLE.

5. REFTTEL PARA 6. (23/13, ANNEX II, PARA 11 (IV)). AGREE.

6. REFTTEL PARA 7. (23/13, ANNEX II, PARA 2). WE APPRECIATE DEL'S EFFORT TO CONTAIN INDIAN ATTEMPT TO MODIFY PRINCIPLE DEALING WITH WEAPONS USE OF NUCLEAR EXPLOSIVE DEVICES DESIGNED FOR PEACEFUL PURPOSES. HOWEVER, FORMULATION ACCEPTED BY WORKING PARTY IS NOT CONSISTENT WITH US POSITION AND COULD WELL PROVE TROUBLESOME IN TEST BAN AND NON-PROLIFERATION CONTEXTS BY IMPLYING THAT SUCH DEVICES MAY HAVE TO BE MODIFIED BEFORE THEY COULD BE USED AS WEAPONS. THEREFORE, DEL SHOULD INSIST ON RETENTION OF LANGUAGE CONTAINED IN GOV/COM.23/13/REV.1: ("ALL ASPECTS OF INTERNATIONAL ARRANGEMENTS MUST TAKE FULLY INTO ACCOUNT THAT ALL NUCLEAR EXPLOSIVE DEVICES DESIGNED FOR PEACEFUL PURPOSES COULD ALSO BE EMPLOYED IN SOME FASHION AS WEAPONS.")

7. REFTTEL PARA 8. REQUEST FOR FURTHER INFORMATION ON LIMITED OFFICIAL USE

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MEXICAN ACTIONS BEING INCLUDED IN SEPTTEL ON POLITICAL QUESTION.

8. REFTTEL PARA 9. WE DO NOT PERCEIVE NEED TO TRY TO ACCOMMODATE FRG REP VON WELCK ON NON-DISCRIMINATION ISSUE UNLESS HE HAS SIGNIFICANT SUPPORT FROM OTHER DELS. IF NECESSARY FOR TACTICAL REASONS TO FIND A COMPREHENSIVE FORMULATION, WE WOULD PREFER TO BASE IT ON PROVISIONS IN THE AGENCY STATUTE. ARTICLE III, SECTION C ("IN CARRYING OUT ITS FUNCTIONS, THE AGENCY SHALL NOT MAKE ASSISTANCE TO MEMBERS SUBJECT TO ANY POLITICAL, ECONOMIC, MILITARY, OR OTHER CONDITIONS INCOMPATIBLE WITH THE PROVISIONS OF THIS STATUTE.") AND ARTICLE IV, SECTION C ("THE AGENCY IS BASED ON THE PRINCIPLE OF THE SOVEREIGN EQUALITY OF ALL ITS MEMBERS ...") SEEM PARTICULARLY RELEVANT. ILLUSTRATIVE FORMULATION: "ALL AGENCY ACTIVITIES INVOLVING PNE PROJECT SERVICES SHOULD BE IN FULL ACCORD WITH ITS STATUTE, INCLUDING THE STATUTE'S PROVISIONS PERTAINING TO NON-DISCRIMINATION." FYI. WE ARE RELUCTANT TO ACCEPT

FORMULATION SUGGESTED REFTEL WITHOUT UNDERSTANDING OF WHAT CRITERIA WOULD BE APPLIED TO JUDGE WHAT CONSTITUTED DISCRIMINATORY TREATMENT AND WHO WOULD APPLY THEN. END FYI.

REF B:

9. REFTEL PARA 2. AS RECEIVED, TITLE REFERS TO "NUCLEAR EXPLOSIVES" RATHER THAN "NUCLEAR EXPLOSIONS". WE ASSUME THIS REPRESENTS ERROR IN TYPING TELEGRAM. IF NOT, DEL SHOULD SEEK CHANGE IN TITLE SO IT REFERS TO "NUCLEAR

"EXPLOSIONS". SAME PROBLEM APPEARS IN FIRST SENTENCE OF PARA 4 OF DOCUMENT TEXT (FIRST SENTENCE, ALTERNATIVE II).

10. REFTEL PARA 3. THIS PARA NOTES THAT MEXICO, CZECHOSLOVAKIA, FRG AND OTHERS STRESSED THEIR SUPPORT FOR LIMITED OFFICIAL USE

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THE "UMBRELLA" AGREEMENT. WHO WERE THE "OTHERS"?

11. DEL SHOULD SEEK CHANGES IN DOC.23/21, AS SPECIFIED BELOW. IF CHANGES ARE ACCEPTED, DEL MAY SUPPORT DOCUMENT. PROPOSED CHANGES ARE:

A. PARA 1 (DOC. TEXT). FORMULATIONS OF SECOND, THIRD AND FOURTH SENTENCES SHOULD BE REVISED SO THAT THEY STATE WHAT THE "UMBRELLA" AGREEMENT "COULD" CONTAIN, RATHER THAN WHAT IT "WOULD" CONTAIN. IN PARTICULAR, WE WISH TO AVOID STATEMENT TO EFFECT THAT LEGAL INSTRUMENT FOR PROVIDING NEPP IN ACCORDANCE WITH THE NPT AND THE 1975 NPT REVCON FINAL DECLARATION "WOULD" BE OPEN TO ALL STATES. IN OUR VIEW, WHAT WOULD BE CONTAINED IN AN AGREEMENT PURSUANT TO ARTICLE V AND WHO WOULD BE ELIGIBLE TO BE A PARTY ARE QUESTIONS FOR NPT PARTIES TO DECIDE, NOT THE AD HOC GROUP. REVISED TEXT WOULD READ: "SUCH AN AGREEMENT COULD BE OPEN TO ALL STATES WHETHER OR NOT THEY ARE MEMBERS OF THE AGENCY AND WHETHER OR NOT THEY ARE PARTIES TO NPT. IT COULD CONTAIN COMPREHENSIVE PROVISIONS COVERING ALL THE RELEVANT SUBJECT MATTER AS SUGGESTED IN ANNEX II TO DOCUMENT GOV/COM.23/13/REV.1. IT COULD ALSO INCORPORATE THE "APPROPRIATE INTERNATIONAL PROCEDURES" MENTIONED IN ARTICLE V OF THE NPT AS DEVELOPED BY THE AGENCY, COULD DESIGNATE THE AGENCY AS THE "APPROPRIATE INTERNATIONAL BODY" REFERRED TO IN THAT ARTICLE AND DEFINE ITS ROLE, AND COULD ADDITIONALLY PROVIDE FOR AGENCY OBSERVATION IN ACCORDANCE WITH DOCUMENT INFCIRC/169."

B. IF STRENUOUS EFFORT TO OBTAIN REVISIONS OUTLINED IS UNSUCCESSFUL, DEL MAY ACCEPT PRESENT FORMULATIONS EXCEPT

FOR STATEMENT THAT AGREEMENT "WOULD" BE OPEN TO ALL STATES.
IF THIS COMPROMISE IS NOT ACCEPTABLE TO GROUP, DEL SHOULD
SEEK INSTRUCTIONS.

C. PARA 5, FIFTH SENTENCE. DEL SHOULD SEEK TO HAVE
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SENTENCE REVISED TO READ: "IN THE NEGOTIATION OF BILATERAL
ARRANGEMENTS STATES INTERESTED IN PROCEEDING WITH A PROJECT
WOULD NOT BE BOUND, STRICTLY AS A MATTER OF LAW, TO
OBSERVE ANY OF THE GENERAL PRINCIPLES UNLESS ALREADY
BOUND BY THE NPT OR ANOTHER TREATY OBLIGATION."

D. PARA 5, SEVENTH SENTENCE. DEL SHOULD SEEK TO HAVE
SENTENCE REVISED TO READ: "DEVIATIONS FROM THE PRINCIPLES,

OTHER THAN THOSE APPROVED BY THE BOARD OF GOVERNORS,
COULD ONLY BE INCORPORATED IN PROJECT AGREEMENTS NOT
INVOLVING THE AGENCY."

E. PARA 8, SECOND SENTENCE. TO MAKE TERMINOLOGY CON-
SISTENT THROUGHOUT DOCUMENT, REFERENCE SHOULD BE TO
"SUPPLIER NUCLEAR WEAPON STATE" NOT REPEAT NOT "SUPPLIER".

F. THE DESCRIPTIONS OF ALTERNATIVES I AND II BOTH STATE
THAT THE ALTERNATIVE WOULD BE IN FULL CONFORMITY WITH NPT
ARTICLE V. HOWEVER, THE SECTIONS DEALING WITH ALTERNATIVE
III AND THE MEMORANDUM OF UNDERSTANDING DO NOT. IT
WOULD BE POSSIBLE TO REMEDY THAT APPARENT OVERSIGHT BY
ADDING SUCH STATEMENTS. A BETTER SOLUTION, WE BELIEVE,
WOULD BE TO DELETE THE STATEMENTS ON THIS POINT UNDER
ALTERNATIVES I AND II SINCE IF ANY OF THE ALTERNATIVES
ARE CLEARLY AT ODDS WITH THE PROVISIONS OF ARTICLE V
THEY SHOULDN'T BE INCLUDED. ALSO, IT IS NOT WITHIN THE
COMPETENCE OF THE AD HOC GROUP TO MAKE ANY DEFINITIVE
STATEMENT ABOUT WHAT WOULD BE IN FULL CONFORMITY WITH
THE PROVISIONS OF ARTICLE V. IF PROPOSAL FOR
DELETION IS NOT ACCEPTED, DEL SHOULD INSIST THAT (1)
STATEMENTS ON APPARENT CONFORMITY TO THE NPT BE ADDED TO
THE OTHER TWO SECTIONS, AND (2) THE STATEMENTS ON CON-
FORMITY TO ARTICLE V IN ALL SECTIONS BE IDENTICAL.
ALTERNATIVELY A SINGLE, GENERAL STATEMENT COULD BE ADDED
AT BEGINNING OF DOCUMENT.

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REFS C AND D:

12. PARA 2, REVISED DOC.23/18. (REF D, PARA 10). AS EXPLAINED REF C, LAST SENTENCE IS ACCEPTABLE. AS WE UNDERSTAND IT, APPROXIMATE TEXT IS: "... DECIDING UPON AND IMPLEMENTING ITS ROLE IN THE ESTABLISHMENT AND OPERATION OF AN INTERNATIONAL SERVICE AND IN ITS ROLE IN RELATION TO ARTICLE V OF THE NPT."

13. PARA 2, REVISED DOC.23/18. (REF D, PARA 11). WE DO NOT OBJECT TO STATEMENT THAT "THE AGENCY MIGHT USEFULLY GIVE ATTENTION TO MEANS OF ENSURING UNIFORM APPLICATION OF ANY PROCEDURES AS THEY ARE DEVELOPED." WE APPRECIATE EXPLANATION REF C THAT THIS STATEMENT OUTGROWTH OF FRG EFFORT TO WORK IN STATEMENTS ON NON-DISCRIMINATION.

14. PARA 2, REVISED DOC.23/18. (REF D, PARA 12). NEW FORMULATION PROVIDED REF C IS ACCEPTABLE. AS WE UNDERSTAND IT, APPROXIMATE TEXT IS: "THE GROUP EXPECTS THAT THE AGENCY WILL CONTINUE TO MAKE AVAILABLE TO INTERESTED STATES UP-TO-DATE INFORMATION CONCERNING POSSIBLE

USES OF NEPP."

MISCELLANEOUS:

15. WE ARE PREPARING A SERIES OF QUESTIONS DEALING WITH POLITICAL SITUATION. WE EXPECT TO TRANSMIT THIS REQUEST BY CLOSE OF BUSINESS, WASHINGTON TIME, THURSDAY, APRIL 28.
VANCE

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Message Attributes

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Sent Date: 27-Apr-1977 12:00:00 am
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Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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